

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID S. YARNALL,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 05-527-SLR
)	
CPL. ANTHONY MENDEZ,)	
DELAWARE STATE POLICE TROOP)	
7, and MILLSBORO POLICE)	
DEPARTMENT,)	
)	
Defendants.)	

MEMORANDUM ORDER

At Wilmington this ~~3/4~~ day of October, 2005, plaintiff
having paid the full filing fee for a civil action;

IT IS ORDERED that:

1. The Clerk of Court shall cause a copy of this order to be mailed to the plaintiff.
2. The United States Marshal shall forthwith serve a copy of the complaint, this order, a "Notice of Lawsuit" form, the filing fee order, and a "Return of Waiver" form upon each of the defendants so identified in each "U.S. Marshall 285" form.¹
4. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an

¹Plaintiff supplied the court with a sufficient number of copies of his complaint as well as the appropriate Marshall 285 forms.

executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

5. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

6. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this action unless the documents reflect proof of service upon the parties or their counsel. The clerk is instructed not to accept any such document unless accompanied by proof of service.

7. Plaintiff's motion for appointment of counsel (D.I. 10) is denied without prejudice to renew after service of the complaint has been effectuated.

8. Plaintiff's motion for leave to proceed in forma

pauperis is denied as moot (D.I. 11), the court finding that plaintiff paid the filing fee in full on August 25, 2005. (D.I. 8, 9)


United States District Judge